

Comment Set 36



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Sacramento Area Office
650 Capitol Mall, Suite 8-300
Sacramento, California 95814-4706

August 19, 2003

In Reply Refer To:
SWR-02-SA-6176:JSS

Judy Brown
California State Lands Commission
Division of Environmental Planning and Management
100 Howe Avenue, Suite 100-South
Sacramento, California 95825-8202

Dear Ms. Brown:

Thank you for submitting your request for agency comments on the Draft Environmental Impact Report (DEIR), Concord to Sacramento Petroleum Products Pipeline project (SCH No. 2002022010, EIR 711), to the National Marine Fisheries Service (NOAA Fisheries). NOAA Fisheries welcomes the opportunity to comment on this report.

NOAA Fisheries has reviewed the DEIR submitted by the California State Lands Commission (CSLC) for the construction and operation of the Concord to Sacramento Petroleum Products Pipeline and wishes to provide the following written comments on the DEIR:

1. NOAA Fisheries should be added to the list of Federal agencies that will be consulted with in Table A-1 for this project. NOAA Fisheries will engage in Endangered Species Act (ESA) section 7 consultations with the United States Army Corps of Engineers (Corps) concerning the effects of this project upon listed anadromous salmonids in the project's action area. Furthermore, NOAA Fisheries must consult with the Corps on the effects of this project upon Essential Fish Habitat for Pacific salmon, northern anchovy, and Pacific groundfish found within the action area of the project, pursuant to section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).
2. The DEIR does not fully explain the rationale for selecting the preferred pipeline route in Phase 1 of the project through the Rhodia property and the Peyton Slough wetlands. The preferred route follows an alignment that will take the pipeline south of Zinc Hill and north of Waterfront Road, before entering the Rhodia property and Peyton Slough. The proposed plan calls for a horizontal directional drill (HDD) to be made beneath the current alignment of Peyton Slough before surfacing in Rhodia property to the south of the abandoned settling ponds. From this point the pipeline alignment moves northward through the Rhodia property, transecting contaminated subsurface cinder piles on the property, before transitioning from the new 20-inch pipeline to a new 14-inch portion of

36-1

36-2



Comment Set 36, cont.

- the pipeline. The DEIR fails to adequately examine the effects of this preferred alignment over the current pipeline Right of Way alignment option (ROW alternative) in this section of the pipeline. NOAA Fisheries has concerns that the proposed routing through the Peyton Slough and Rhodia lands will have detrimental impacts to the mandated cleanup and restoration activities planned for in this area. Specifically, they are:
- a.) The proposed HDD siting may have an elevated risk of fracout in the sensitive wetland areas of Peyton Slough. The western bore point appears to be in a non-upland area, potentially even in hydric soils where the bore is still on its shallow descent into the proposed bore alignment. Fracouts have their highest probability of occurrence during the entrance and exit phases of the boring, when the drill head is still at shallow depth. The DEIR does not address these risks in the Peyton Slough section of the pipeline adequately. NOAA Fisheries is concerned that fracouts in this crossing may contaminate the waters of Peyton Slough with both bentonite, and contaminated sediment carrying both copper and zinc metals from underlying deposits in the drill path.
 - b.) The proposed alignment intersects the two contaminated cinder piles on the Rhodia property. The DEIR does not address the potential for contaminated ground waters to seep back along the alignment of the pipeline into the sensitive wetlands areas. These waters would have a low pH (acidic) and carry dissolved metals from the cinder piles, thus potentially contaminating the surrounding wetlands and the waters of Peyton Slough. This would be particularly devastating to the remediated slough, which has sought to cap sources of metal contamination in the marsh and provide new habitat for terrestrial and aquatic species.
3. The DEIR does not give an alternative option to phase 2 of the project. Phase 2 will have a HDD bore pass under the Carquinez Straits from the southern shore of the straits, in what is now the Peyton Marsh, to the northern shores of the straits, east of the current Benicia Bridge location. The proposed site for the pipeline laydown string is in Peyton Marsh, between the current location of Peyton Slough and the future location of the "new" Peyton Slough alignment. These lands will be restored wetland habitat and secondary tidal channels. The pipeline string will be expected to damage many acres of these restored wetlands and tidal waters through the construction of access roads and the physical damage from the pipeline itself on fragile wetland plants and soils. The marsh will be approximately ten years old following the restoration activities, and reaching its full restored potential at the time of this HDD bore. The DEIR has not provided adequate detail to describe how these adverse impacts will be avoided. In addition, the DEIR has not provided an alternative to the HDD option in phase 2 if the bore is still not technologically feasible, and the current 14-inch pipeline under the straits has reached its projected useful lifetime.

36-2

36-3

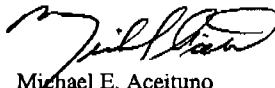
Comment Set 36, cont.

4. The DEIR does not address alternatives for routing the new 20-inch pipeline around the Rhodia property, or following the existing ROW in this section of the pipeline. A full analysis of alternate routes through this area of contaminated soil and sensitive wetlands is indicated. Substantial changes to the proposed Rhodia/Peyton Slough remediation project brought about by the activities of the proposed project may trigger reinitiation of the section 7 consultation between NOAA Fisheries and the U.S. Army Corps of Engineers, San Francisco District. Furthermore, a full evaluation of the impacts to the restored Peyton Slough and Marsh complex caused by the proposed alignment is missing from the DEIR.

36-4

NOAA Fisheries wishes to thank CSLC for the opportunity to offer comments and suggestions on this DEIR. If you have any questions regarding these comments, please contact Jeffrey Stuart in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Mr. Stuart can be reached by telephone at (916) 930-3607, or by FAX at (916) 930-3629.

Sincerely,



Michael E. Aceituno
Supervisor, Sacramento Area Office

cc: NMFS-PRD, Long Beach, California
Stephen A. Meyer, ASAC, NMFS, Sacramento, California

Responses to Comment Set 36

36-1 The Final EIR includes text revisions in Table A-1 (Permits Required) to add National Marine Fisheries Service, NOAA Fisheries to the list of Federal agencies that will be consulted (see Section 4, under changes to Section A, page A-1).

36-2 The Draft EIR analyzes the Proposed Project as detailed in SFPP's application to the CSLC as well as the Existing Pipeline ROW Alternative (installation of a new 20-inch pipeline within SFPP's existing ROW of its 14-inch pipeline) and the No Project Alternative (SFPP's continued operation of its 14-inch pipeline). The relative effects of each of these "projects" may be compared using Table ES-1, Comparison Matrix: Proposed Project and Alternatives (see Section 4, which includes the revised Executive Summary).

Regarding section a) of the comment, please refer to Responses to Comments 14-36, and 33-3(c).

As to section b) of the comment, please refer to Responses to Comments 14-17, 14-36, 14-38, 14-39, and 33-1.

36-3 Please refer to Response to Comment 14-3.

36-4 Please refer to Responses to Comments 14-4 and 33-1.